

Department of Communications, Information Technology and the Arts

Annual Report

on the operation of the

Protection of Movable Cultural Heritage Act 1986

and the administration of the National Cultural Heritage Account

1999–2000

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**PROTECTION OF MOVABLE CULTURAL HERITAGE ACT 1986
1999-00 FINANCIAL STATEMENTS**

STATEMENT BY THE DEPARTMENTAL SECRETARY

Section 47 of the Protection of Movable Cultural Heritage Act 1986 requires an Annual Report to be prepared on the working of the Act during each year.

There were no financial transactions involving the Account during the year ended on 30 June 2000, and no assets or liabilities existed at that date. There are no other matters required by Schedule 2 to the Finance Minister's Orders made under section 63 of the *Financial Administration and Accountability Act 1997* that need reporting on.

N R STEVENS
Secretary

September 2000

Purpose of the Act

The *Protection of Movable Cultural Heritage Act 1986* (the Act) regulates the export from Australia of cultural heritage objects. The purpose of the Act is to protect, for the benefit of the nation, those objects the loss of which overseas would significantly diminish Australia's cultural heritage. The Act includes provisions that also allow Australia to respond to an official request by a foreign government to return objects that have been illegally exported from their country of origin.

The Act defines certain heritage objects as 'Australian protected objects' and implements a system of export permits. Some Australian protected objects of Aboriginal or Military heritage cannot be granted a permit for export under any circumstance. Other Australian protected objects may be exported provided a permit has been obtained. Permits are granted by the Minister for the Arts and the Centenary of Federation, on the advice of the National Cultural Heritage Committee and Expert Examiners. Heritage objects located overseas may also be defined as Australian protected objects under the Act, and a certificate of exemption may be issued for such an Australian protected object to enter Australia and return overseas without restriction.

National Cultural Heritage Control List

The National Cultural Heritage Control List sets out the categories of objects classed as Australian protected objects and the criteria defining each of these categories. These criteria include historical association, cultural significance to Australia, representation in an Australian public collection, age, and current financial thresholds.

The Control List includes Class A objects which cannot be granted a permit for export and Class B objects that may be granted a permit for export.

Class A objects for which a permit cannot be granted, include:

1. some of the most significant items of Aboriginal and Torres Strait Islander heritage:
 - bark and log coffins;
 - human remains;
 - rock art;
 - dendroglyphs (carved burial and initiation trees); and
 - sacred and secret ritual objects.
2. Victoria Crosses awarded to Australian recipients.

Class B objects which may be exported subject to a permit, include:

- archaeological objects;
- objects of Aboriginal and Torres Strait Islander heritage not covered under Class A;
- natural science objects;
- objects of applied science or technology;
- military objects;
- objects of fine or decorative art;

- objects of documentary heritage;
- numismatic objects and medals not covered under Class A;
- philatelic objects; and
- objects of historical significance.

Liaison with Australian Customs Service (ACS)

During 1999-00, there has been an increase in liaison between Customs and the Protection of Movable Cultural Heritage Secretariat. During the year Customs conducted an information program for its officers regarding the protection of movable cultural heritage, which resulted in a marked increase in the level of coordination between the two organisations. With the assistance of Customs, a number of inquiries were undertaken in respect of objects being imported into Australia. One object was seized and following inquiries, subsequently returned to its owner.

Following trials with the Australian Customs Service, a profiling program with the Custom's EXIT system has been instituted. Additionally, Secretariat staff attended Customs workshops and provided input to the Customs' Cargo Management Re-engineering project.

National Cultural Heritage Account

The National Cultural Heritage Account was established under Section 5 of the *Protection of Movable Cultural Heritage Amendment Act 1999* and in accordance with the regulatory requirements of the *Commonwealth Authorities and Companies Act 1997*. Its purpose is to facilitate the acquisition of Australian protected objects for display, research, or safe-keeping. A total of \$500 000 was allocated during the 1999–2000 financial year to establish the Account and it is expected to be maintained at this level over time.

There has been no expenditure from the Account during the year, however, as at 30 June 2000 negotiations were being conducted in regard to a number of Australian Protected Objects.

Export permit applications

A total of 1,129 objects were assessed under 211 applications (including requests for letters of clearance) in 1999–00. A statistical summary of all applications processed in 1999–00 is at Appendix I. As in previous years, a range of material was included in the applications and these are listed at Appendix II.

There were 17 applications covering 32 objects under consideration at 1 July 1999 and 19 applications covering 22 objects under active consideration at 30 June 2000.

Applications for permanent export

Permits were issued to permanently export 59 cultural heritage objects in 56 applications. In general, the exporters were seeking to either sell the objects on the international market, or to exchange the objects with overseas collectors.

Applications for temporary export

Permits were issued to allow the temporary export of 517 Australian protected objects in seven applications for exhibition purposes. These permits were issued for:

- 459 rolls of 16 mm film of 1956 Melbourne Olympics;
- a 1899 steam car manufactured in Mannum, SA ;
- 44 works of art by Aboriginal artists from various collections;
- a 1955 racing car built by Eldred Norman (not the original engine);
- a DH 60 – Gipsy Moth aircraft;
- two philatelic exhibitions; and
- nine Aboriginal artworks.

Letters of clearance

In addition to dealing with many telephone enquiries, 104 letters of clearance were issued covering 344 objects. These confirm that export permits are not required where objects do not fall within the Control List. Of this total, expert examiners issued 23 letters of clearance covering 150 palaeontological objects (natural science objects of Australian origin).

Expert examiners have indicated that the vast majority of palaeontological applications relate to material that is of little or no scientific or cultural significance, or is adequately represented in public collections by items of equivalent quality.

Applicants may now obtain a preliminary assessment of palaeontological objects. Where the object is assessed as being of little scientific or cultural significance a letter of clearance allowing its export is issued immediately by the expert examiner.

In cases where the object is assessed as being of high scientific or cultural significance and is not adequately represented in public collections, it is subject to the full assessment process, including consideration by the Committee.

Applications later withdrawn

20 applications received were later withdrawn in the year under review.

Conditional permits

Fourteen conditional permits were issued during 1999–00.

Two permits were granted for motor vehicles on the condition that certain photographic documents and any historical records associated with the vehicle be forwarded to the Department for future research purposes.

Similarly, the other permits were granted for the export of paintings on the condition that a high quality, colour transparency of the painting, and where applicable historical documents be forwarded to the Department for future research purposes.

Certificates of Exemption

Nine certificates of exemption were issued during 1999-00. Certificates of exemption allow Australian Protected Objects that are currently overseas, to be imported into Australia and subsequently re-exported. Owners of overseas Australian protected objects are encouraged to repatriate them to Australia for display or sale. A certificate provides security that they can be re-exported on completion of the exhibition or if sale to a resident of Australia is unsuccessful. In the case of objects imported for exhibition, this allows Australians access to elements of their cultural heritage that would otherwise be unavailable to them. Objects returned for sale provide opportunities for Australian residents to purchase and return these objects to the Australian domain.

As an example, during 1999–00 certificates of exemption were issued for:

- items to be displayed at a retrospective exhibition of Papunya Tula works at the Art Gallery of NSW;
- the temporary import of a Churinga stone from America to Australia for research purposes; and
- two Kaurna clubs on loan to the South Australian Museum from a British University.

Refusal of export permits

Four applications for an export permit were refused during 1999–00. These were:

Object	Date of decision
<p>Two Aboriginal paintings:</p> <ul style="list-style-type: none"> • Kaapa Mbitjana Tjampitjinpa, <i>Budgerigar Dreaming</i>, 1972. The artist is now regarded as the first Master Artist of the Papunya Tula group. The work contains anthropological and cultural information evidencing ritual knowledge and intellectual property about the religious beliefs practised in central Australia. • Old Walter Tjampitjinpa, <i>Water Dreaming</i>, 1972. The work depicts a map or blueprint for the construction of ceremonial grounds which would only have been seen by initiated men, and it represents a rare work in the context of the artist's body of work. 	20 January 2000
<p>Gold Nugget 25 kg</p> <p>The largest surviving nugget in Australia, with no other example of this scale, in any public or private Australian collection. The</p>	28 January 2000

specimen was considered to be the last opportunity to retain a natural symbol of the cultural heritage of gold. The gold rush era of the 19 th Century also represented a dynamic period of immigration to Australia, a significant era in the shaping of the Australian identity.	
<p>Frodsham Regulator clock no.1062 from the Old Melbourne Observatory</p> <p>The Regulator was used from the time of its arrival in 1865, for at least 22 years, in the observation of southern stars. The Southern Star mapping project was coordinated by the Royal Observatory in Greenwich and involved observatories in Cape Town, Madras, and Melbourne in the production of the first accurate star maps of the Southern Hemisphere. The observations were pivotal to the success of the overall program. The Regulator was also used by the Observatory in the provision of Standard Time in the Colony of Victoria, which later became the basis of the National Time Service.</p>	28 January 2000
<p>A Walker-made Steam Boiler Id. No. 150-16-114 (a merry-go-round engine)</p> <p>This is the only known Walker roundabout engine to survive in Australia, and no roundabout engine appears in any public institution.</p> <p>The engine is considered to be of high social significance due to its introduction as an amusement and entertainment device, for the enjoyment of large audiences. The object also holds a technological significance through the introduction of steam to the entertainment industry. The object provides a link to the past and contributes to a better understanding of the history and culture of Australia and Australians.</p>	4 February 2000
<p>A Ruston Proctor Traction Engine Class SHA 42028</p> <p>The engine was constructed in the UK specifically to suit Australian conditions and market forces. It is associated with the introduction of direct ploughing techniques and machinery to Australia's agricultural industry of the early part of this century. The engine is the only known working example of a Ruston "Colonial" traction engine in Australia. No British Colonial traction engines of any make are presently represented in any public collection in Australia.</p>	4 February 2000

National Cultural Heritage Committee

The Act provides for the Minister to appoint the National Cultural Heritage Committee. The Committee is responsible for advising the Minister on permit applications; and on

the administration of the Act, including the National Cultural Heritage Control List, the Register of Expert Examiners, and the National Cultural Heritage Account.

Committee members are:

Mr Philip Jones, Principal Curator, Department of Anthropology, South Australian Museum, from 26 October 1995 (Chairperson).

Mr Roger McIlroy, Managing Director of Christie's Australia, from 29 January 1996.

Dr Kenneth McNamara, Senior Curator, Invertebrate Paleontology, Western Australian Museum, from 26 October 1995.

Mr Simon Molesworth AM QC, Barrister-at-Law, Victoria, from 29 January 1996.

Professor Deryck Schreuder, Vice-Chancellor and University Principal, University of Western Australia, from 26 November 1998.

Ms Deborah Tranter, Director, Cobb & Co Museum, Queensland, from 24 April 2000.

Ms Patricia Sabine, Director, Tasmanian Museum and Art Gallery, from 27 April 2000.

Ms Brenda Croft, Curator of Indigenous Art, Art Gallery of Western Australia, from 25 February 2000.

Ms Carol Henry, General Manager, Art Exhibitions Australia, NSW, from 15 February 2000.

Ms Jennifer Sanders, Associate Director, Powerhouse Museum, Sydney, from 4 May 2000.

A considerable amount of Committee business took place outside of the more formal meetings, including considering export applications and expert examiners' advice and making recommendations to the Minister.

In addition, the Committee met in Canberra on 27 August 1999 and 20 December 1999, and via telephone conference on 28 April 2000 and 22 May 2000, to consider contentious applications and issues under the Act.

Register of Expert Examiners

The Register of expert examiners was maintained by the Committee in accordance with Section 22 of the Act. The Committee continually seeks to invite individuals with appropriate expertise to join the Register to ensure that it is balanced, comprehensive and representative.

The Committee wishes to express its sincere gratitude to the expert examiners, who do not receive remuneration, for giving the benefit of their wide experience and practical support throughout the year. Their specialised knowledge and advice in preparing reports for consideration by the Committee and the Minister is vital in the protection of Australia's significant movable cultural heritage.

Illegal trade in cultural material and overseas requests for return of material illegally exported from the country of origin

During the year the Secretariat continued to receive inquiries from within Australia and overseas regarding possible illegal exports. The Secretariat worked in cooperation with the Australian Federal Police and Customs officers to investigate these inquiries. Under the Act, objects illegally exported from another country into Australia contrary to cultural heritage laws of the country of origin, may be subject to seizure and forfeiture to the Commonwealth. Actions taken included negotiation with overseas government agencies and the search and location of material within Australia.

In some of these cases the potential threat of legal action is enough to ensure that exporters obtain proper export clearances under cultural heritage laws to safeguard the national heritage interests of the country of origin. Where necessary, action is taken under the Act to seize illegally exported objects and return them to their country of origin. In other cases, seizure action proves unnecessary or inappropriate after the initial investigation. Each such case not only demonstrates the vigilance of Australian authorities and Australia's willingness as a good neighbour to cooperate in protecting the national heritage of other countries but also helps to improve public awareness of the importance of national cultural heritage.

As noted in last year's Annual Report the Secretariat successfully negotiated the return to Australia of a 25 kg Gold Nugget that had been illegally exported from Australia for sale in the US. The nugget was subsequently denied an export permit and has been sold to an Australian company to remain in Australia.

During the year the Secretariat was involved in continuing investigations into the repatriation of:

- 33 ancient Greek artefacts allegedly stolen from Greece and illegally exported to Australia in 1994;
- gold coins allegedly illegally exported from Spain after being recovered from the shipwreck of the *Douro* were returned to the United Kingdom at their owners request; and
- a first century AD Roman statue allegedly illegally exported from Italy was returned to its owner.

The Act also enables the return to Australia of illegally exported Australian protected objects. During the year the Secretariat provided assistance to the National Portrait Gallery at Old Parliament House, in returning to Australia the 1782 portrait of James Cook, painted by John Webber.

The UNESCO Convention

There are 91 states party to the *UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property* (1970). The Act was passed as the necessary implementing legislation prior to Australia's accession to the Convention, which occurred on 30 January 1990.

Administration and staffing

Financial and staffing details relating to the administration of the Act are contained in the 1999–00 Annual Report of the Department of Communications, Information Technology and the Arts.

Appendix I

Summary of Applications 1999–00

Active applications during 1999–00

	Objects	Applications
Number of Applications under consideration at 1 July 1999	32	17
Applications for export received 1999–00 (including Letters of Clearance issued)	1,097	194
TOTAL 1999–00	1,129	211

Export Permits 1999-00

Permanent*	59	56
Temporary	517	7
Withdrawn	181	20
Letters of Clearance	344	104
Applications refused	6	5
Applications under active consideration at 30 June 2000	22	19

Certificates of exemption 1999–00

Certificates of Exemption applications received 1999–00	10	9
Certificates of Exemption issued	10	9
Certificates of Exemption under consideration—30 June 2000	0	0
Certificates of Exemption applications refused	0	0
Certificates of Exemption withdrawn	0	0

*Fourteen permanent permits are conditional. See under *Conditional Permits* on page x.

Appendix II

Permits Issued in 1999–00

PERMANENT EXPORT

Description	Date Granted
Meteorite: H4 Chondrite (approx 138gms)	19.7.99
Iron octahedrite meteorite fragments and lumps (109 kg) from Henbury Meteorite locality	12.7.99
1940 Percival Proctor single engine aircraft (dismantled and incomplete)	30.7.99
An envelope bearing two stamps from 1850	23.9.99
1927 Paige Roadster motor vehicle	10.8.99
1930 Chrysler type 66 Roadster motor vehicle	10.8.99
1911 Bianchi motor vehicle	10.8.99
1912 Rolls Royce Silver Ghost motor vehicle	10.8.99
A collection of three polished pink diamonds	3.9.99
Supermarine Spitfire aircraft (composite – unknown mark) not flying	10.9.99
1927 Avro Avian aircraft (about 70 percent of the remains)	6.10.99
1908 semi-restored Talbot motor vehicle	10.9.99
Fiddleback blackwood oval desk by Goldman & Co. circa 1915	15.2.00
1927 Buick motor vehicle Model 27/25	29.12.99
1928 Packard motor vehicle	29.12.99
1912 Minerva motor vehicle	29.12.99
1902/3 Rambler motor vehicle	29.12.99
1954 Minneapolis GBD Tractor	23.2.00
1952 Chamberlain Tractor Model 40 KA	23.2.00
1910 Talbot 6AS motor vehicle	23.2.00
1912 Rolls-Royce motor vehicle	23.2.00
1968 Braham racing car BT31-1	18.2.00
1912 Talbot type 4M motor vehicle	11.6.00
1921 Roll-Royce Silver Ghost Tourer motor vehicle	11.6.00
An oil painting <i>The Medical Examination</i> 1941 by Russell Drysdale	21.3.00
An oil painting <i>The Farm of Mr Perry on the Yarra</i> 1855 by Eugene Von Guerard	30.3.00
1925/26 Morris-Type London Tourer motor vehicle with spare engine	31.5.00
Two vintage Crossley 14 hp Chassis	31.5.00
1947 Jaguar MK IV 3.5 litre Drophead Coupe motor vehicle	31.5.00
Papunya Board 1972 by Old Walter Tjampitjimpa	23.6.00
Papunya Board 1972 by Mick Namarari Tjapaltjarri	23.6.00
Papunya Board 1972 by Yala Yala Gibbs Tjungurrayi	23.6.00
Papunya Board 1972 by Shorty Lungkata Tjungurrayi	23.6.00
Papunya Board 1972 by Charlie Tarawa Tjungurrayi	23.6.00
Papunya Board 1972 by Johnny Scobie Tjapanangka	23.6.00
Papunya Board 1972 by Mick Namarari Tjapaltjarri	23.6.00
1957 Cooper Climax Racing Car Type 43	2.5.00
Harley Davidson 350cc motor cycle	23.6.00

Aboriginal artwork <i>Untitled</i> 1972 by Mani Luki	23.6.00
Aboriginal artwork <i>Wandjina Spirit</i> 1970 by Charlie Numbulmoore	23.6.00
Aboriginal artwork <i>Wandjina</i> 1970 by Charlie Numbulmoore	23.6.00
Aboriginal artwork <i>Wandjina Spirit</i> by Charlie Numbulmoore	23.6.00
Aboriginal artwork <i>Dreaming Paths in Kunwinjku Country</i> 1969 by Yirawala	23.6.00
Aboriginal artwork <i>Birrkulda (Sugar Bag/Native Honey) Ceremony</i> 1960 by Daynganggan	23.6.00
Aboriginal artwork <i>Ceremony with Ngurula (Sea Tern) Totem</i> 1962 by Mauralan Marika	23.6.00
Aboriginal artwork <i>Sacred Bird</i> 1959 by Yirawala	23.6.00
Aboriginal artwork <i>Untitled (Ceremony with Bullroarers)</i> 1972 by John (Kipari) Tjakamarra	23.6.00
Aboriginal artwork <i>Untitled</i> 1972 by Tim Leura Tjapaltjarri	26.6.00
Aboriginal artwork <i>Tingari Ceremony at Ilingawurn Gawurng</i> 1974 by Shorty Lungkarda Tjungurrayi	26.6.00
Aboriginal artwork <i>Water Dreaming</i> 1971 by Johnny Warangkula Tjupurrula	23.6.00
Aboriginal artwork <i>Water Dreaming with Emu at Kalipinya</i> 1973 by Johnny Warangkula Tjupurrula	23.6.00
Aboriginal artwork <i>Water Dreaming at Mikantji</i> 1972 by Kaapa Mbitjana Tjampitjinpa	23.6.00
Aboriginal artwork <i>Medicine Story</i> 1971/72 by Shorty Lungkarda Tjungurrayi	26.6.00
Aboriginal artwork <i>Untitled (Snake Dreaming)</i> 1971 by Ling Jack Phillipus Tjakamarra	26.6.00
Aboriginal artwork <i>Emu Story</i> 1971 by Kaapa Mbitjana Tjampitjinpa	23.6.00
Aboriginal artwork <i>Untitled</i> 1972 by Ronnie Tjampitjinpa	26.6.00

TEMPORARY EXPORT

Description	Date Granted
459 rolls of 16 mm film of 1956 Melbourne Olympics	30.8.99
1899 Steam car manufactured in Mannum, SA	2.9.99
44 works of art by Aboriginal artists from various collections	6.1.00
1955 racing car built by Eldred Norman (not the original engine)	23.3.00
DH 60 – Gipsy Moth aircraft	10.1.00
Two philatelic exhibitions	11.1.00
Nine Aboriginal artworks	28.3.00

CERTIFICATES OF EXEMPTION

Description	Date Granted
Two Australian Aboriginal clubs (pre 1860)	31.1.00
<i>Untitled</i> 1972 by Shorty Lungkarda Tjungarrayi	17.5.00
<i>Travels of Tingari Ancestors</i> 1972 by John Tjakamarra	17.5.00
<i>Untitled</i> 1972 by Mick Namarari Tjalpatjarri	17.5.00
<i>Titjikutjarra at Yawarrankunya (Two Boys Dreaming)</i> 1971 by Johnny Warangkula Tjupurrula	17.5.00
<i>Water Dreaming at Kalipinyapa</i> 1972 by Johnny Warangkula Tjupurrula	18.5.00
Aboriginal artwork – bark painting <i>Untitled</i> 1958 by Yirawala	17.5.00
Aboriginal artwork by Johnny Warangkula Tjupurrula 1972	17.5.00
An 8-inch Churinga stone	19.5.00